



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/311,107	05/13/99	DILLON	M 54719USA7A

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IM62/1003

EXAMINER

ZITOMER, F

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 10/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/311,107

Applicant(s)
Dillon et al.

Examiner
Fred Zitomer

Group Art Unit
1713



- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- Of the above, claim(s) 9, 10, 13, 15, and 20-23 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8, 11, 12, 14, 16-19, and 24 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5 & 6
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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I.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19 and 24, drawn to compositions, classified in class 526, subclass 250.
- II. Claims 20-23, drawn to methods of reducing melt defects, classified in class 526, subclass 242+.


The inventions are distinct, each from the other because:

Inventions of Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in the materially different process of preparing a coating.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: fluoropolymer additives comprising monomers of formulas I and II.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 20 are generic.



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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with James V. Lilly on August 17, 2000 a provisional election was made with traverse to prosecute the invention of Group I, claims ^{1-19, 24}~~20-23~~, and the ⁷⁸ elected species of the polymer of Example 8, viz. 10%HTEA/90%HTEB. Claims 1-8, 11, 12, 14, 16-19 and 24 read on the elected species. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9, 10, 13, 15 and 20-23 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

2.

The disclosure is objected to because of the following informalities: references are improperly cited as docket numbers at page 8, line 27 and page 14, line 18.

Appropriate correction is required.

3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 11, 12, 14, 16-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blong et al., US 5,710,217, taken with Kmiec, US 5,718,974, or Winter et al., US 5,350,817.

Blong teaches melt processable, polyolefin compositions comprising processing aids containing fluoropolymers of the present monomer units [column 6, line 12 - column 7, line 40]. Kmiec teaches using multimodal resins to adjust the properties of polyolefin resin blends,

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including blends containing fluoropolymer processing aids [column 3, lines 1-10; Table VI].


Winter teaches preparing polyolefins of multimodal molecular weight distribution according to the processing need at hand [column 1, lines 9-20]. Blong does not teach processing aids comprising multimodal fluoropolymers. It would have been obvious to modify Blong to contain multimodal fluoropolymers in the expectation of optimizing processing conditions because Kmiec and Winter teach the embodiment for the same class of resins disclosed by Blong.

4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Zitomer whose telephone number is (703) 308-2461. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.


FRED ZITOMER
PRIMARY EXAMINER
GROUP 1710

Zitomer/fz
September 28, 2000